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January 29, 2008

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Federal Election Commission
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MUR # 5978

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2008 FEB 19 P 12 5

Re Complaint against Kirk for Congress (FEC Committee ID# C00350785)

Dear Ms Duncan

I am filing this complaint against the Kirk for Congress Committee (Kirk), a registered congressional committee (FEC-C00350785) for what appears to be the non-filing of Form 3Z-1 that was required as part of the filing of the pre-primary report due January 24, 2008. The fact that this form was not filed as required by federal law causes the FEC Form 3 to be considered late and subject to fine as dictated in the FEC law.

Background

On January 24, 2008 Kirk filed the FEC Form 3 for the preprimary period October 1, 2007-January 16, 2008 (FEC-316786). As part of that filing under the "millionaire's amendment", Kirk must disclose on Form 3Z-1 the breakdown of the contributions for the cycle between the primary and general election and the amount of personal funds contributed by the candidate. The 3Z-1 is required to be filed as part of the year end filing for 2007. Due to the fact that the Illinois primary falls on February 5, 2008, the FEC waived the filing of the 2007 year end report and required that the pre-primary report cover the period from October 1, 2007 through January 16, 2008 with a due date of January 24, 2008. This change in reporting date also required that the 3Z-1 filing be included with the filing of the FEC form 3 due on January 24, 2008.

Law

As the Commission knows, The Millionaires' Amendment is a part of the McCain-Feingold Law passed in 2002 that increases contribution limits for candidates who face opponents who put substantial sums of their personal funds into their own campaigns. The purpose of this amendment was to allow candidates running against a self-financed opponent to receive contributions from individuals at increased limits and to have increased coordinated party expenditures made on their behalf. The timing of the filing of 3Z-1, detailing the information required in the Millionaire's Amendment, is specific in the law in order to create an even playing field for all the candidates. That is why the penalties for late filing of this report are so onerous.

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In late December 2007 the following information was posted on the FEC web site

Form 3Z-1 Generally, principal campaign committees of U S House candidates running in 2008 must file FEC Form 3Z-1 as part of their 2007 Year-End Reports. However, in light of the Year-End Report being waived for committees of candidates running in the IL Primary Election, these principal campaign committees must instead file FEC Form 3Z-1 as part of their Pre-Primary Election Reports. The information provided on this form allows opposing candidates to compute their "gross receipts advantage" which is used to determine whether a candidate is entitled to increased contribution and coordinated expenditure limits under the "Millionaires' Amendment."

REPORT	REPORTING PERIOD 1	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Year-End	--- WAIVED ---		
Pre-Primary	10/01/07 - 01/16/08	01/21/08 2	01/24/08
48-Hour Notices	01/17/08 - 02/02/08	--- see below ---	
April Quarterly	01/17/08 - 03/31/08	04/15/08	04/15/08

Conclusion

I am concerned that the Kirk for Congress Committee has failed to comply with this simple rule of fully disclosing all the required information under the McCain-Feingold law. This failure creates an advantage to the Kirk Campaign that should not be allowed. I ask the Commission to investigate this complaint quickly as each day the required information is kept secret is one less day the committee has an unlawful competitive advantage.

Sincerely,

Michael Kreloff
Attorney at Law

AFFIDAVIT

Michael Kreloff, being duly sworn, state that I have read the foregoing Complaint, that I am the Complainant, and that the contents of the Complaint are true to the best of my knowledge.


Michael Kreloff

Subscribed and sworn to before me this
16 day of February, 2008


Notary Public

